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7 DAVID J. KILLIAN, ANTHONY M. MAROTTA,
and ROSA COURT, LLC

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11
12 VINCENT KAMYAR VAGHAR,
13 Plaintiff,

14 v.
15 DAVID J. KILLIAN; ANTHONY M.
16 MAROTTA; and ROSA COURT, LLC, a
New Jersey limited liability company,
17 Defendants.

Case No. C 07 4083 MMC

**SUPPLEMENTAL DECLARATION OF
ANTHONY M. MAROTTA IN SUPPORT
OF MOTION TO DISMISS SECOND
AMENDED COMPLAINT OF PLAINTIFF
VINCENT KAMYAR VAGHAR OR, IN
THE ALTERNATIVE, TO TRANSFER
VENUE**

18 Date: November 16, 2007
19 Time: 9:00 a.m.
Judge: Honorable Maxine M. Chesney
Courtroom: 7

20
21 I, Anthony M. Marotta, declare:

22 1. I am an adult individual over eighteen years of age and a co-managing
23 member of Rosa Court, LLC ("Rosa"). I make this declaration in support of Defendants' Motion
24 to Dismiss the Second Amended Complaint (the "Second Amended Complaint") of Plaintiff
25 Vincent Kamyar Vaghah ("Vaghah") or, in the Alternative, to Transfer Venue of this matter to the
26 Eastern District of Pennsylvania.

27 2. I have reviewed the declaration of Vincent Kamyar Vaghah dated October
28 26, 2007 in this matter (the "Vaghah Declaration") and submit this supplemental declaration in

1 response to the assertions set forth therein. I have personal knowledge of the matters stated in
 2 this declaration and could and would competently testify thereto if called upon as a witness at
 3 trial or any other proceeding in this matter.

4 **A. Vaghar Overstates the Parties' Actual Agreement:**

5 3. In paragraph 14 of the Vaghar Declaration, Vaghar contends that:

6 “Before entering into the Agreement I [Vaghar] specifically
 7 discussed with Killian and Marotta that any dispute would be
 8 governed by California law and heard in a court venued in
 9 California. Killian and Marotta both consented to this agreement
 verbally and over email, as evidenced from Marotta (Killian was
 copied on the email) dated October 19, 2006.”

10 4. Despite Vaghar’s conclusory assertions to the contrary, all of our
 11 discussions on this subject with respect to the Agreement for Settlement of Debt (the
 12 “Agreement”) were confined to his preference over which particular state’s law (e.g.,
 13 Pennsylvania or California) would apply to any dispute between us.

14 5. I also wish to point out that Rosa and I never sought the advice of a lawyer
 15 to review the new documents appended to the Vaghar Declaration before we physically signed
 16 them in Philadelphia, Pennsylvania. Had I known that Vaghar would seek to re-write the terms of
 17 our actual agreement with him, I would have retained a lawyer to make sure that the Agreement
 18 clearly reflected all aspects of what Vaghar and the Defendants agreed upon on this issue.

19 6. Neither I, nor to my knowledge David Killian (either in his individual or
 20 representative capacity for Rosa Court, LLC) ever agreed to defend or otherwise litigate a dispute
 21 involving the Agreement with Vaghar in the State of California. That is precisely why we asked
 22 him to have his lawyers prepare a document (namely, the Agreement) that would supersede the
 23 personal guarantees to which he now claims require us to travel to California to litigate this
 24 matter.

25 7. In addition, until reviewing the Vaghar Declaration, I have neither heard of
 26 nor used the term “venued” or “forum” in connection with my dealings with Vaghar. Rather, the
 27 document to which he admits was replaced by the Agreement at issue herein actually uses the

1 term "settled" when referring to "disputes, differences or questions" between us that would have
2 involved arbitration in the State of California. (Again, as Vaghar himself even concedes, that
3 document was voided by our subsequent Agreement.)

4 8. In any event, Vaghar well knows that the Defendants have not yet formally
5 responded to the Arbitration that he initiated in Los Angeles. When we do, we have advised him
6 that we intend to challenge his assertion that we are required to arbitrate all of the claims set forth
7 therein in California.

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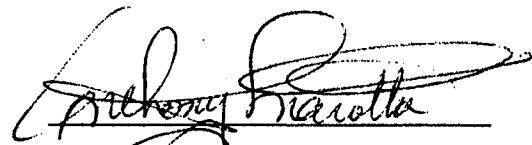
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1 Executed this 1st day of November 2007, in the State of New Jersey.

2 I declare under penalty of perjury under the laws of the United States that the
3 foregoing is true and correct.

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Anthony M. Marotta